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Message Text

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ORIGIN EUR-12

INFO OCT-01 ISO-00 L-03 SS-15 JUSE-00 PRS-01 EB-07 SSO-00

CIAE-00 DODE-00 INR-07 NSAE-00 PA-01 USIA-06 SP-02

INRE-00 ERDA-05 NRC-05 OES-06 COME-00 TRSE-00 NSCE-00

NSC-05 OMB-01 /077 R

DRAFTED BY EUR/CAN:JHROUSE,JR.;L/EB:SBENSON:CLJ
APPROVED BY EUR-MR. AAHARTMAN
L-MFELDMAN
D-LPASCOE
JUSTICE-MR. DAVIDOW (SUBS)
S/PRS-MR. BROWN(SUBS)
S/S- SESTEINER
EB/IFD/BP-MR.WLOCKWOOD
---------- 077395
O P 020114Z SEP 76
FM SECSTATE WASHDC
TO AMEMBASSY OTTAWA IMMEDIATE
INFO AMCONSUL TORONTO PRIORITY
AMCONSUL MONTREAL PRIORITY

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E.O. 11652: N/A

TAGS: EMIN, EIND, ENRG, CA

SUBJECT: GUIDANCE RE POTASH AND URANIUM ANTI-TRUST CASES IN U.S.
REF: A) OTTAWA 3474; B) STATE 156118

1. FOLLOWING ARE CONTINGENCY QS AND AS PREPARED FOR USE BY DEPARTMENT SPOKESMAN AT PRESS BRIEFING SEPT. 1 CONCERNING CALL BY CANADIAN AMBASSADOR WARREN ON ACTING SECRETARY AUGUST 31. CANADIAN EMBASSY TELLS US EXTAFF SPOKESMAN HAS
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TOLD PRESS WARREN CALLED TO EXPRESS CANADIAN CONCERNS RE POTASH AND WHILE HERE URANIUM ALSO DISCUSSED. DEPARTMENT BELIEVES IT IMPORTANT TO CORRECT MISINFORMATION BEING REPORTED IN CANADA RE POTASH ANTI-TRUST CASE. EMBASSY

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SHOULD DRAW FULLY AND FREELY ON SECOND Q AND A TO THIS END. WE PREFER NOT TO INCREASE PUBLIC ATTENTION TO URANIUM CASE WHICH HAS NOT YET BECOME ACTIVE PUBLIC AND PRESS ISSUE IN CANADA; ACCORDINGLY EMBASSY SHOULD UTILIZE URANIUM GUIDANCE ONLY IF ASKED.

2. BEGIN TEXT: Q: THE CANADIAN GOVERNMENT HAS STATED THAT THE CANADIAN AMBASSADOR CAME IN ON AUGUST 31 TO RAISE WITH THE ACTING SECRETARY THE JUSTICE DEPARTMENT'S POTASH ANTI-TRUST CASE. CAN YOU TELL US ABOUT THE DISCUSSION?

A: AMBASSADOR WARREN DID RAISE THE POTASH CASE WITH SECRETARY ROBINSON. THE SECRETARY LISTENED VERY CAREFULLY TO THE AMBASSADOR'S PRESENTATION. HE EXPLAINED THE PROCE-DURES OF U.S. LAW WHICH RESULTED IN THE FILING OF THE BILL OF PARTICULARS NAMING CERTAIN CANADIAN NATIONALS AS UNINDICTED CO-CONSPIRATORS. SECRETARY ROBINSON ASSURED THE CANADIAN AMBASSADOR THAT WE ARE SENSITIVE TO THESE CONCERNS AND WISH TO SEE THESE MATTERS PROCEED IN A CORRECT MANNER WHICH IS CONSISTENT WITH OUR GOOD RELATIONS.

Q: WHAT IS THE STATE DEPARTMENT'S POSITION AS TO THE PROPRIETY OF NAMING CANADIANS AS UNINDICTED CO-CONSPIRATORS IN THIS CASE?

A: WE WOULD LIKE TO ENSURE THAT THE POTASH CASE IN GENERAL, AND THE NAMING OF CANADIANS AS UNINDICTED CO-CONSPIRATORS IN PARTICULAR, IS NOT MISUNDERSTOOD IN CANADA. TO THIS END, WE WOULD MAKE SEVERAL POINTS:

-- THE JUSTICE DEPARTMENT DISCLOSED THE NAMES OF ALLEGED UNINDICTED CO-CONSPIRATORS IN RESPONSE TO A PRE-TRIAL MOTION BY THE DEFENDANTS IN THE CHICAGO TRIAL. IT DID NOT VOLUNTEER THIS INFORMATION AND TURNED IT OVER ONLY BECAUSE THE COURT WOULD HAVE REQUIRED IT TO DO SO IN ORDER TO PERMIT THE DEFENDANTS TO ADEQUATELY RESPOND TO THE INDICTMENT.

-- INCLUSION IN THE CASE AS UNINDICTED CO-CONSPIRATORS CARRIES NO LEGAL SANCTION FOR THE INDIVIDUALS INVOLVED.

-- THE INDICTMENT RELATES ONLY TO AN ALLEGED CONSPIR-ACY TO ALLOCATE PRODUCTION IN THE U.S. AND TO FIX PRICES IN THE U.S. MARKET. IT DOES NOT CALL INTO QUESTION THE POTASH PRORATIONING SYSTEM OF THE SASKATCHEWAN GOVERNMENT OR ANY OTHER GOVERNMENT ACTION IN CANADA TAKEN WITH RESPECT TO CANADIAN PRICES OR CANADIAN PRODUCTION. THUS, THIS CASE INVOLVES NO UNUSUAL APPLICATION OF U.S. ANTI-TRUST LAW BEYOND ITS BORDERS.

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Q: THE CANADIANS SAY THE URANIUM ANTI-TRUST CASE WAS ALSO DISCUSSED. WHAT WAS SAID?

A: THE URANIUM CASE WAS DISCUSSED. THE SECRETARY ONCE AGAIN LISTENED WITH CARE. HE EXPLAINED THAT THE CASE IS ONLY IN THE INVESTIGATING STAGE AND OUTLINED THE PROCEDURES BEING FOLLOWED. SECRETARY ROBINSON SAID WE WOULD FOLLOW THE CASE CAREFULLY AND STAY IN CLOSE TOUCH WITH THE CANADIAN GOVERNMENT.: END TEXT.

3. IF EMBASSY OBLIGED TO GET BACK TO BALFOUR (REF A) IN ADDITION TO POINTS IN PARA TWO, YOU SHOULD NOTE THAT DELETION OF HIS AND OTHER NAMES FROM LIST OF ALLEGED CO-CONSPIRATORS IN BILL OF PARTICULARS IS NOT POSSIBLE. AS LAWYER BALFOUR MAY WELL UNDERSTAND THAT INCLUSION AS "CO-CONSPIRATORS" OF BROAD LIST OF INDIVIDUALS WHO EVIDENCE INDICATES CONNECTED WITH CASE, IS ESSENTIAL PART OF CONSPIRACY CASE IN ORDER TO SUPPORT INTRODUCTION OF FULL RANGE OF EVIDENCE IN CASE AGAINST INDICTED DEFENDANTS.

4. SUMMARY REPORT OF WARREN CALL FOLLOWS SEPTEL. PRESS GUIDANCE BEING SENT WINNIPEG UNCLASSIFIED. ROBINSON

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